

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: _____ 8/12/2022

RAPHAEL JACKSON,

Petitioner,

22-CV-03357 (LGS)(SN)

-against-

ORDER

MICHAEL CAPRA,

Respondent.

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SARAH NETBURN, United States Magistrate Judge:

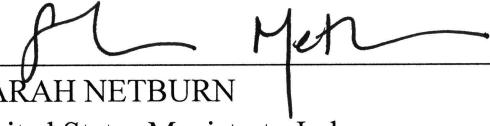
Petitioner filed a letter with the Court on July 14, 2022, seeking to stay his habeas petition so that he may exhaust certain claims in state court by way of a CPL § 440.10 motion. ECF No. 10. Petitioner's motion to stay this matter is GRANTED. The matter is stayed, and Petitioner's habeas petition shall be held in abeyance so that Petitioner can exhaust his additional claims in state court. Rhines v. Weber, 544 U.S. 269, 277 (2005) (finding the stay and abeyance of a habeas petition is appropriate when there is "good cause for the petitioner's failure to exhaust his claims first in state court" and where the claims are not "plainly meritless").

Petitioner is further granted leave pursuant to Federal Rule of Civil Procedure 15(a) to amend the petition to include those additional claims if they are rejected by the state court.

Finally, Petitioner is ordered to file a status letter with the Court within 30 days of a final decision on Petitioner's CPL § 440.10 motion.

SO ORDERED.

DATED: New York, New York
August 12, 2022



SARAH NETBURN
United States Magistrate Judge